

TOWN OF GRAND CHUTE  
ORDINANCE O-04-2019, SERIES OF 2019

AN ORDINANCE AMENDING CHAPTER 398, SECTION 17, OF THE CODE OF GENERAL ORDINANCES FOR THE TOWN OF GRAND CHUTE, OUTAGAMIE COUNTY, WISCONSIN, WHICH ADOPTS A SMOKING BAN IN THE TOWN OF GRAND CHUTE.

WHEREAS, Chapter 398, Section 398-17, of the Town of Grand Chute Municipal Code adopts, by reference, the provisions of §101.123, Wis. Stats., pertaining to the statewide smoking ban, and establishes the authority to enforce said ban; and,

WHEREAS, §101.123, Wis. Stats., does not incorporate electronic cigarettes (e-cigarettes) or other similar devices designed to simulate tobacco smoking and deliver nicotine through inhalation of aerosol, mist, or vapor produced by the product; and,

WHEREAS, research has demonstrated that the risks associated with secondhand smoke from an e-cigarette are comparable to those from a regular cigarette; and,

WHEREAS, the aerosols exhaled by users of e-cigarettes contain heavy metals, volatile organic compounds, and ultrafine particles that can be inhaled deep into the lungs; and,

WHEREAS, the Surgeon General of the United States has deemed the use of e-cigarettes as a “public health epidemic” among youth, calling upon communities to implement strategies to curb use among young people, such as including e-cigarettes in smoke-free air policies;

NOW THEREFORE BE IT ORDAINED by the Board of Supervisors of the Town of Grand Chute, Outagamie County, Wisconsin, that Chapter 398, Section 398-17, of the Grand Chute Municipal Code, is hereby amended and adopted as follows:

**§ 398-17 Smoking ban.**

- A. **[Added 6-15-2010 by Ord. No. 2010-07]** Purpose. The town board recognizes that smoking of cigarettes and other tobacco products and inhaling vapors from an electronic delivery device are hazardous to an individual's health and may affect the health of nonsmokers/smokers when they are involuntarily in the presence of smoking. Reliable scientific studies assessed by credible health officials have found that secondhand tobacco smoke and the vapors exhaled by users of an electronic delivery device are significant health hazards for children, elderly people, and individuals with cardiovascular disease or impaired respiratory function. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers. This article is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Town of Grand Chute, especially recognizing the health interests of nonsmokers, who constitute a majority of the population.
- B. Smoking ban adopted. The Town hereby adopts, by reference, the provisions of § 101.123, Smoking prohibited, Wis. Stats., pertaining to the statewide smoking ban as of July 5, 2010.
- C. Use of electronic delivery devices.
  - (1) Definitions. The following words, terms, and phrases, when used in this subsection, shall have the meaning ascribed to them, except where the context indicates a different meaning:

**Electronic delivery device** - any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol, mist, or vapor from the product. The term includes, but is not limited to, devices manufactured, distributed, marketed, or sold as electronic cigarettes or cigars, electronic pipes, personal vaporizers, electronic nicotine delivery systems, vape pens, or electronic hookahs.

An electronic cigarette (e-cig or e-cigarette), personal vaporizer (PV), or electronic nicotine delivery system (ENDS) is a battery-powered vaporizer which has the feel of tobacco smoking. They produce a mist rather than cigarette smoke. In general, a heating element vaporizes a liquid solution known as e-liquid. E-liquids usually contain a mixture of propylene glycol, glycerin, nicotine, and flavorings.

**Smoking** - burning or holding or inhaling or exhaling smoke, mist, or vapor from, any of the following items containing tobacco or nicotine products:

- a. A lighted cigar
- b. A lighted cigarette
- c. A lighted pipe
- d. An electronic delivery device
- e. Any other lighted smoking equipment

(2) Prohibition. The prohibition against smoking established in § 101.123, Wis. Stats., and adopted in Section B., above, shall be expanded to include the use of an electronic delivery device.

D. Inspection and enforcement. The Town of Grand Chute Police Department shall have the power to enter any premises subject to the smoking ban established by this section to ascertain whether the premises is in compliance with, and to take appropriate enforcement action pursuant to, this section.

E. Violations and penalties.

Any person found to have violated any provision of this chapter shall be subject to a forfeiture as prescribed in the Uniform Forfeiture and Bond Schedule.

#### END OF AMENDMENT

If any provision of this ordinance is invalid or unconstitutional, or the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this ordinance, which can be given effect without the invalid or unconstitutional provision, or its application.

Approved and adopted this 20 day of March, 2019

TOWN OF GRAND CHUTE

VOTED FOR: 5

VOTED AGAINST: 0

**New Language in bold**

Approved as to Form

for Al Romil

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